

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

7-ELEVEN, INC.

V.

PUERTO RICO-7, INC., ET AL

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C.A. NO. 3:08-cv-00140

COUNTER-PLAINTIFFS' RESPONSE TO MOTION TO DISMISS COUNTERCLAIM

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW Puerto Rico-7, Inc., and The Mattera Reserve, Inc., and for their Response to Motion to Dismiss the Counterclaim (Doc. 25) respectfully show as follows:

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Counter-Plaintiffs have, concurrently with this response, filed an unopposed Motion for Leave to File First Amended Counterclaim, which makes Plaintiff's Motion to Dismiss the Counterclaim based on Rules 9(b) and 12(b)(6) moot as a matter of law.

WHEREFORE, Counter-Plaintiffs request Counter-Defendant's Motion to Dismiss the Counterclaim be denied as moot, and for all such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

/s/ James M. Lober

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing was on this date automatically accomplished on all known Filing Users through the Notice of Electronic Filing. Service on any party or counsel who is not a Filing User was accomplished via Email, Facsimile, Certified Mail/RRR or U.S. First Class Mail, in accordance with the Federal Rules of Civil Procedure on this 18th day of June, 2008.

/s/ James M. Lober

James M. Lober